

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	§		
Colin Andrew Low et al.	§	Confirmation No.	1268
	§		
Serial No.: 10/672,851	§	Group Art Unit:	3715
	§		
Filed: September 26, 2003	§	Examiner:	Hu, Kang
	§		
For: TWO MODE CREATURE	§	Atty Docket:	NUHP:0477/FLE/DOO
SIMULATION	§		30018433-3

Mail Stop Appeal Brief - Patents
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March 24, 2010 Date	/Matthew C. Dooley/ Matthew C. Dooley

REPLY BRIEF PURSUANT TO 37 C.F.R. § 41.41

Appellants submit this Reply Brief pursuant to 37 C.F.R. § 41.41 and in response to the Examiner's Answer mailed on January 25, 2010. Specifically, this Reply Brief highlights the underlying deficiencies of the contentions made by the Examiner in the Examiner's Answer with respect to the Section 101 and 102 rejections made by the Examiner. Appellants respectfully request that the Board consider the following remarks in addition to the complete arguments set forth in the Appeal Brief filed on December 21, 2009.

First Ground of Rejection

In the Examiner's Answer, the Examiner maintained that claims 1, 3-9, and 11 were rejected under 35 U.S.C. § 101, as being directed to non-statutory subject matter. Appellants respectfully urge the Board to reverse this rejection in view of the reasons set forth in the Appellants' Brief, and reiterated below.

Appellants respectfully submit that the rejection of claims 1, 3-9, and 11 under Section 101 (*see* Examiner's Answer, pages 3-4) is deficient for at least the same reasons as previously pointed out on page 5 of the Appeal Brief. For example, Appellants respectfully submit that independent claims 1 and 11 recite "the first mode of simulation is less detailed and less computationally intensive than a second mode of simulation." (Emphasis added.) Appellants respectfully submit that one skilled in the art would understand that computing simulations would necessarily be performed by a particular machine or apparatus, e.g., a computer. Indeed, the specification supports the conclusion that a particular machine or apparatus (e.g., a computer) computes the simulations. *See* Specification, page 2, lines 1014 and 27-32, page 3, lines 1-4, page 6, lines 8-12, and page 8, lines 15-21 and 25-33. Accordingly, Appellants respectfully submit that one skilled in the art would interpret independent claims 1 and 11, as well as all claims depending therefrom, in light of the specification to be performed by a particular machine or apparatus, e.g., a computer.

Additionally, claim 11 recites "a simulator device...the device being arranged to utilise at least two modes of simulation." As such, independent claim also specifically recites a particular machine or apparatus, namely "a simulator device." As such, Appellants respectfully submit that independent claim 11 is directed to statutory subject matter, as it recites a particular machine or apparatus.

Accordingly, for at least the reasons set forth above, Appellants respectfully submit that independent claims 1 and 11 are directed to statutory subject matter. Accordingly, Appellants respectfully submit that the Section 101 rejection of independent claims 1 and 11, as well as all

claims depending therefrom, is improper. As such, Appellants respectfully request that the Board direct the Examiner to withdraw of the rejection of claims 1, 3-9, and 11 under 35 U.S.C. § 101.

Second Ground of Rejection

In the Examiner's Answer, the Examiner maintained that claims 1 and 3-11 were rejected under 35 U.S.C. § 102(b) as being anticipated by Startcraft (game manual copyright 1998). *See* Examiner's Answer, page 4. Appellants respectfully urge the Board to reverse this rejection in view of the reasons set forth in the Appellants' Brief, and reiterated below.

Independent Claims 1, 10, and 11

Independent claims 1, 10, and 11 recite, *inter alia*, "results of the simulation at the second mode of simulation are used to provide a simulation of the plurality of creatures at the first mode of simulation." (Emphasis added.) Appellants respectfully submit that the rejection of independent claims 1, 10, and 11 under Section 102 (*see* Examiner's Answer, pages 4 and 7-8) is deficient as the Examiner has mischaracterized the Starcraft manual.

In the Examiner's Answer, the Examiner generalized independent claims 1, 10, and 11 as requiring "two modes differing modes of simulation, the first mode of simulation observable and less detailed and less computationally intensive than a second mode of simulation." *See* Examiner's Answer, page 12. The Examiner further suggested that the first mode was disclosed in the Starcraft manual to be a mini map providing an overview of an entire mapped area while the second mode was disclosed in the Starcraft manual to be a main screen providing a move detailed view of a portion of an entire mapped area. *See id.* The Examiner also suggested that the Starcraft manual discloses that "two different simulations are provided concurrently, the second mode provides its result to the first mode." *See id.* Appellants respectfully submit that the aforementioned assertions by the Examiner are inaccurate.

Contrary to the assertion by the Examiner, the alleged second mode (the main screen providing a partial detailed map) disclosed in the Starcraft manual does not provide results to a

first mode (the mini map of the entire mapped area). Indeed, it appears that the main screen and the mini map merely provide two different views of the same simulation, i.e., different views of the same event occurring during game play. *See* Starcraft manual, page 13. That is, there appears to be only a single simulation occurring at any given time in the Starcraft manual, and the main screen and mini map merely provide differing views of that single simulation.

This is in contrast to the recitations of independent claims 1, 10, and 11, which recite “results of the simulation at the second mode of simulation are used to provide a simulation of the plurality of creatures at the first mode of simulation.” Thus, not only do independent claims 1, 10, and 11 recite both a first and a second mode of simulation (contrary to Starcraft which appears only to disclose a single mode of simulation) but independent claims 1, 10, and 11 further recite that the results of the second mode of simulation are used to provide simulation of a plurality of creatures at the first mode of simulation. That is, the first mode of simulation is dependent on simulations from the second mode of simulation.

There has been no showing by the Examiner that either of the two views of a single simulation disclosed in the Starcraft manual are used to provide simulations to the other view. Instead, the two views merely appear to be documenting the same events through different viewpoints. As such, the Starcraft manual cannot be read as disclosing “results of the simulation at the second mode of simulation are used to provide a simulation of the plurality of creatures at the first mode of simulation,” as recited in independent claims 1, 10, and 11.

As noted above, the cited reference fails to disclose all of the features of independent claims 1, 10, and 11. Appellants, therefore, assert that the independent claims, as well as all claims depending therefrom, are allowable. Accordingly, Appellants respectfully request that the Board instruct the Examiner to withdrawal of the rejection of independent claims 1, 10, and 11, as well as all claims that depend therefrom, and further request that the Board direct the Examiner to pass all currently pending claims to allowance.

Conclusion

Appellants respectfully submit that all pending claims are in condition for allowance and urge the Board to reverse the outstanding rejections.

Respectfully submitted,

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